

REMARKS/ARGUMENTS

The present communication is filed in response to the Official Action mailed June 19, 2006, finally rejecting all the claims presently pending in the application ("Final Rejection".) Of the pending claims, claims 22 and 34 are independent claims. All the other claims remaining in the application, namely claims 23-28, 30-33, 35-36, 38-40, depend from one of the independent claims.

A two-month extension of the time to respond, up to and including November 19, 2006 is filed concurrently herewith. In addition, applicants are filing concurrently a Notice of Appeal.

Claim 34 has been amended to improve its form. Previously, the calculating step was not set forth as a separate clause as it is now. Applicants respectfully submit that this amendment does not add new matter to the specification.

Applicants respectfully submit that the claims are in proper form for appeal.

The Examiner has rejected all the claims under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,732,400 to Mandler et al. ("*Mandler*"). In rejecting claim 22, the Examiner asserts that *Mandler* discloses "setting at the credit company server, an interest rate based on the item being purchased (col. 3, lines 30-65; col. 7, line 5 to col. 8, line 15; and col. 11, line 15 to col. 13, line 30)." (Final Rejection at 3.) Claim 34 recites a similar step of "setting, at the credit company server, a first interest rate based on the type of good being purchased." Applicants respectfully traverse the Examiner's rejection of the claims over *Mandler*.

In particular, the claims are distinguishable over *Mandler* because *Mandler* does not teach or suggest "setting . .

. an interest rate based on the item [or of good] being purchased," as is recited in claim 22 or 34. In fact, *Mandler* includes only one mention of interest rate. But that mention of interest rate is in no way associated with setting the price of an item. In particular, *Mandler* states:

"The revolving line of credit allows the cardholder to pay for credit card purchases over a period of time at an interest rate set by the merchant bank. For example, VISA® and MASTERCARD® Bankcard Association cards represent typical consumer credit cards offering a revolving line of credit."

(*Mandler*, col. 2, 11.10-15.) Thus, *Mandler's* disclosure states only that the merchant bank sets an interest rate. That interest rate is set without any consideration of the items being purchased. In fact, it is reasonable to assume that *Mandler* sets the interest rate as is normally done for credit applications, e.g., based on the prime rate or the risks associated with the borrower.

Indeed, the portions of *Mandler* which the Examiner relies on to support her rejection do not mention the term interest rate. Furthermore, those portions of *Mandler* clearly do not disclose setting an interest rate based on the item or good being purchased. *Mandler* makes no mention of setting the interest rate based on the item or good being purchased at all.

Rather, *Mandler* discloses a system and method whereby a "financial clearinghouse further determines a risk-based discount rate as a function of the buyer's risk classification to establish a payment amount to a seller by the clearinghouse. The financial clearinghouse also determines a credit line for each buyer." (*Id.*, col. 3, 11.43-47.) In determining a buyer's risk classification, the financial

clearinghouse takes into account "a variety of factors including for example: the financial condition of the buyer; the industry condition and outlook; the geographic condition and outlook; the number of the buyer's years in business; credit reports; any outstanding legal actions; consumer credit report on principals (for small entities); and bank references." (*Id.*, col. 11, 11.48-55.) Thus, a buyer's risk classification determines the buyer's credit line and a discount fee that is associated with the purchase. The discount fee is not, however, an interest rate. That much is clear. As previously mentioned, the term "interest rate" is mentioned only once in *Mandler*. When mentioned, it is not associated with the price of the goods. Furthermore, it is clearly distinguished from the discount fee. In addition, assuming *arguendo* that the Examiner is asserting that the discount fee is the interest rate, the discount fee is not set based on the item being purchased. Rather, it is set based on the risk classification associated with a user.

In view of the foregoing, applicants respectfully submit that the claims of the present application are clearly distinguishable over *Mandler*. In particular, *Mandler* does not at all disclose "setting, at the credit company server, an interest rate based on the item being purchased," as is recited in claim 22. *Mandler* also does not disclose "setting, at the credit company server, a first interest rate based on the type of good being purchased," as is recited in claim 34. In addition, there is no suggestion in *Mandler* for this feature of the claims. *Mandler's* only discussion of interest rate is with respect to the interest rate being set by a merchant. There is no suggestion that when a merchant sets an interest rate that it does so based on the item being purchased. Rather, it is clear that the interest is set in a conventional manner, *e.g.*, based on the risk classification of

the buyer. Thus, for at least these reasons, claims 22 and 34 are not anticipated by *Mandler*.

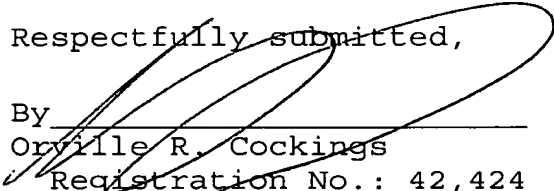
As all the other claims remaining in the application depend from either claim 22 or claim 34, these claims are also not anticipated or rendered obvious by *Mandler* for at least the foregoing reasons.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that she telephone applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

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